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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,094	07/25/2003	Jeffrey G. Freeman	33951.3	2248
27683	7590	12/01/2005		
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			EXAMINER VASUDEVA, AJAY	
			ART UNIT 3617	PAPER NUMBER

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/627,094		FREEMAN ET AL.	
	Examiner		Art Unit	
	Ajay Vasudeva		3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 14 and 27-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 14 and 27-30 is/are allowed.
- 6) ☒ Claim(s) 31-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 31-34 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2001-233289 A ('289).

JP ('289) shows a flotation device for supporting a user in the water (figures 1 and 2), having a pair of buoyant front panels [11] with a closure connecting the front panels. A pair of side connecting panels, comprising grommets and tie cords [17], extends from the front panels for disposition beneath the arms of the user. A buoyant back panel [12] is connected to the side connecting panels.

A buoyant head support panel [15] is affixed to the back panel for supporting the head of a user (see paragraph 23, lines 1-3, of the English translation). Because the head support panel is made of elastic resin sheet (paragraph 25 of the translation), it will show some degree of flexibility along the attachment seam line (see figure 5). The head support panel is therefore considered to be hingedly attached to the back panel.

A bottom connecting panel [13] extending from the front panels to the back panel for disposition between the user's legs. The bottom connecting panel is considered buoyant due to buoyancy provided by the bladder.

Re claims 32 and 38, it is noted that at least three tethers are provided for connecting the two front panels together. However, only two of such three tethers can be used for connecting the

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two front panels, and the remaining third tether can be employed for connecting to something else, such as another flotation device..

Re claims 33 and 39, the limitation "clip", such has been broadly interpreted to mean any type of fastener or fastening device. As such, the string holes [13a, 16] on the bottom connecting panel and the front panels, respectively, are considered to be equivalent of clips. The limitation "for clipping said device to a second flotation device" is merely an intended use. In the present case, the flotation device is considered capable of being attached to another flotation device by passing of a suitable fastener, such as a string, through the clip of the front panel.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 31-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips (US 2,807,035 A) in view of JP 2001-233289 A ('289).

Phillips ('035) shows a flotation device (fig. 3) having a pair of buoyant front panels [2, 3] with a closure [11] connecting the front panels. A pair of side connecting panels comprising straps [7, 8] extends from the front panels for disposition beneath the arms of the user. A buoyant back panel [1] is connected to the side connecting panels. A pair of shoulder straps [4] connect the front panels to the back panel. Re claims 36 and 42, the straps are capable of being separated/torn by use of a substantial force, and are therefore considered removable.

Re claims 32 and 38, a tether [14] is provided with a clip [15] for securing the flotation device firmly to the body of the user. The limitation "for connecting said device to a second flotation device" is merely an intended use. In the present case, the tether is considered capable of being attached to another flotation device and therefore meets the requirement of the claim.

Phillips ('035), however, is silent on the provision of a buoyant head support panel or a bottom connecting panel (claims 31 and 37), or of a clip provided on each of the front panels (claims 33 and 39).

JP ('289) shows a flotation device with a buoyant head support panel and a bottom connecting panel, as described in ¶ 2 above.

It would have been obvious for one skilled in the art at the time of the invention to provide a buoyant head support panel and a bottom panel in device of Phillips ('035), as taught by JP ('289). Providing such panels would have maintained the head of a user above the water level, while also prevention a slipping out from the vest, if the user were to become unconscious. Such an arrangement would have therefore ensured a greater safety.

Re claims 33 and 39, the device is provided with at least one tether having a clip. However, it would have been obvious for one skilled in the art at the time of the invention to provide at least one additional tether with clips -- with at least one tether provided on each front panel -- in the device of Phillips ('035). Providing a multiplicity of tethers with clips would have ensured greater safety because it would have eliminated the risk of accidental separation of the flotation device from the user due to a malfunction or damage of the only tether. Further, the limitation "for clipping said device to a second flotation device" is merely an intended use. The

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modified Phillips ('035) would be capable of being attached to another flotation device, and therefore meets the requirement of the claim.

Allowable Subject Matter

5. Claims 8, 14 and 27-30 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 31-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: The art cited in the attached PTO form 892 shows a variety of personal flotation devices.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617

AV 


S. JOSEPH MORANO
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